

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00135-FDW**

MATTHEW JAMES GRIFFIN,

Plaintiff,

vs.

ERIC A. HOOKS, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on Plaintiff’s “Motion for an Order of Substitution” [Doc. 32] and Plaintiff’s “Motion to Re-Issue Summons and USM-285 for Defendant FNU Clifton” [Doc. 34].

In his Motion for an Order of Substitution, Plaintiff asks the Court to change the docket to reflect the proper spelling of Defendant Erik A. Hooks’ first name. [Doc. 32]. Plaintiff’s motion will be granted.


Plaintiff also moves to have summons and form USM-285 re-issued for Defendant FNU Clifton. [Doc. 34]. Summons against Defendant FNU Clifton issued on December 3, 2019. [Doc. 17 at 15]. The Plaintiff argues, and the Court confirmed, that Defendant FNU Clifton’s last name was misspelled as “Clinton” on the USM-285 form completed by the U.S. Marshals Service and used for service on Defendant Clifton. [Doc. 17-1 at 8]. The summons was returned unexecuted as to Defendant Clifton for the reasons stated in the sealed process receipt. [Doc. 24]. The Court will, therefore, grant Plaintiff’s motion in part, in that the Court will direct the U.S. Marshal to complete a new USM-285 as to Defendant Clifton and again attempt service. Because it has not been 90 days since summons against Defendant Clifton first issued, no new summons is needed.

Fed. R. Civ. P. 4(c)(1), (m).

IT IS HEREBY ORDERED that:

1. Plaintiff's Motion for an Order of Substitution [Doc. 32] is **GRANTED** and the Clerk is instructed to correct the docket to reflect the proper spelling of Defendant Hooks' first name as "Erik."
2. Plaintiff's Motion to Re-Issue Summons and USM-285 for Defendant FNU Clifton [Doc. 34] is **GRANTED IN PART** in that the U.S. Marshals Service is directed to complete a new USM-285 form as to Defendant FNU Clifton and again attempt service on this Defendant.
3. The Clerk is respectfully instructed to provide a copy of this Order and Docket Entry 17-1 at 15-16 to the U.S. Marshals Service for service of Summons and Complaint on Defendant FNU Clifton.

Signed: January 23, 2020


Frank D. Whitney
Chief United States District Judge

